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FRIJOUF, RUST & PYLE, P.A. and ROBERT F. FRIJOUF

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

PURE BIOSCIENCE, a California)	CASE NO. 08 CV 0489 W CAB
Corporation,)	
)	ANSWER TO COMPLAINT FOR
Plaintiff,)	DECLARATORY RELIEF
)	
vs.)	
)	
FRIJOUF, RUST & PYLE, P.A., a Florida)	
Corporation, ROBERT F. FRIJOUF, an)	
individual, and does 1 through 50 inclusive,)	
)	
Defendants.)	
)	

Defendants, FRIJOUF, RUST & PYLE, PA, a Florida partnership, and Robert F. Frijouf
(hereinafter "Defendants") by and through their attorneys of record, answer the Complaint of
Plaintiff, PURE BIOSCIENCE, ("Plaintiff") as follows:

1. With regard to the allegations in Paragraph 1, Defendants, based on information and belief, admit this paragraph.
2. With regard to the allegations in Paragraph 2, Defendants admit Defendants Frijouf, Rust & Pyle, P.A. are and at all times mentioned in the complaint were a legal partnership reporting to represent certain interests of Pure Bioscience. Defendants further admit

Robert F. Frijouf was the lead attorney for Pure Bioscience within the referenced firm.

Based on information and belief, the remaining allegations in paragraph 2 are denied.

3. With regard to the allegations in the second paragraph numbered "2," (typo?) Defendants admit the following: An actual controversy has arisen and now exists in that Defendants assert entitlement to collect fees from Pure Bioscience. Defendants deny the remaining allegations in this paragraph.
4. With regard to the allegations in paragraph 3, Defendants admit the same.
5. With regard to the allegations in paragraph 4, Defendants lack sufficient knowledge and information to admit or deny this paragraph due to its vague nature.

GENERAL DENIAL

These answering defendants deny generally and specifically each, every and all of the allegations in said complaint, and the whole thereof, including each and every purported cause of action contained therein. These answering defendants further deny that plaintiff has or will sustain damages.

AFFIRMATIVE DEFENSES

AS AND FOR A FIRST, SEPARATE AND AFFIRMATIVE
DEFENSE, THESE ANSWERING DEFENDANTS ARE INFORMED
AND BELIEVE AND THEREON ALLEGE AS FOLLOWS:

The complaint and every purported cause of action therein fails to set forth facts sufficient to state a cause of action.

AS AND FOR A SECOND, SEPARATE AND AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT IS INFORMED
AND BELIEVE AND THEREON ALLEGE AS FOLLOWS:

The plaintiff has engaged in conduct with respect to the activities and/or property which are the subject of the complaint, and by reason of said activities and conduct, is estopped from asserting any claim or damages or seeking any other relief against these answering defendants.

1 AS AND FOR A THIRD, SEPARATE AND AFFIRMATIVE
2 DEFENSE, THESE ANSWERING DEFENDANTS ARE INFORMED
3 AND BELIEVE AND THEREON ALLEGE AS FOLLOWS:

4 The plaintiff has engaged in conduct and activities sufficient to constitute a waiver of any
5 alleged breach of contract, negligence or any other conduct, if any, as set forth in the Complaint.

6 AS AND FOR A FOURTH, SEPARATE AND AFFIRMATIVE
7 DEFENSE, THESE ANSWERING DEFENDANTS ARE INFORMED
8 AND BELIEVE AND THEREON ALLEGE AS FOLLOWS:

9 By virtue of plaintiff's unlawful, immoral, careless, negligent and other wrongful conduct,
10 plaintiff should be barred from recovering against these answering defendants by the equitable
11 doctrine of unclean hands.

12 AS AND FOR A FIFTH, SEPARATE AND AFFIRMATIVE
13 DEFENSE, THESE ANSWERING DEFENDANTS ARE INFORMED
14 AND BELIEVE AND THEREON ALLEGE AS FOLLOWS:

15 Defendants' performance of the agreement between the parties was at all times reasonable
16 and appropriate. Plaintiff's own breach of the agreement was the cause in whole or in part of the
17 claims necessitating this action.

18 AS AND FOR A SIXTH, SEPARATE AND AFFIRMATIVE
19 DEFENSE, THESE ANSWERING DEFENDANTS ARE INFORMED
20 AND BELIEVE AND THEREON ALLEGE AS FOLLOWS:

21 These answering defendants presently have insufficient knowledge or information upon
22 which to form a belief as to whether they may have additional, as yet unknown, affirmative defenses.

23 These answering defendants reserve the right to assert additional affirmative defenses in the
24 event discovery indicates it would be appropriate.

25 WHEREFORE, these answering defendants pray that plaintiff take nothing by way of its
26 complaint on file herein, that judgment be entered in the within action in favor of these answering
27 defendants and against the plaintiff upon the issues of the complaint, together with an award to these
28 defendants of attorneys' fees and costs of suit herein incurred, and such other and further relief as the
Court deems just

1 Dated: March 24, 2008

NEIL, DYMOTT, FRANK,
MCFALL & TREXLER
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4 By: //s// Hugh A. McCabe
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David P. Hall
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ROBERT F. FRIJOUF